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THE PUBLIC SERVICE

Veterans' Preference in
Hiring and
Reductions-in-Force

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The Public Service: Veterans' Preference in Hiring and Reductions-in-Force

By law, federal agencies are to provide preferential hiring consideration to veterans and others as a measure of national gratitude and compensation for their military service. The proposed Veterans Employment Opportunities Act of 1997, S. 1021, is to amend title 5 of the United States Code to provide that consideration may not be denied to veterans who are eligible for preference when applying for certain positions in federal service and for other purposes. Although GAO is not taking a position on the proposed legislation, it is providing information that is based on a body of work it has done since 1990 on veterans' hiring preference and on reductions-in-force (RIF) at three military installations (in 1991) and at the U.S. Geological Survey (in 1995).

From 1990 through 1997, preference-eligible veterans represented a larger portion of the federal workforce than veterans did of the civilian workforce, and from 1993 through 1997, veterans with preference have represented about 21 percent of all new career appointments to federal service. In each year from 1990 through 1997, the percentage of preference-eligible veterans in the federal workforce was about twice as large as that of veterans in the civilian workforce.

For a random sample of hiring certificates from 1990 and 1991 that GAO reviewed, both the awarding of veterans' preference and the placement of veterans on hiring certificates were done properly in nearly all cases. However, hiring officials more frequently returned unused those certificates headed by the names of preference-eligible veterans than those without the names of veterans at the top.

When agencies reduce their workforces through RIFs, veterans also have certain retention rights. For each of three RIFs at military installations in fiscal year 1991, GAO determined that employees lacking veterans' preference were from about two to seven times more likely to have lost their jobs than were employees with veterans' preference. GAO found that during the U.S. Geological Survey's 1995 RIF, as required by law and Office of Personnel Management regulations, employees with veterans' preference were consistently given higher retention standing than competing employees without such preference. GAO also found that preference-eligible veterans were just as likely to be affected in some manner during the RIF—reassigned, moved to another position, or laid off—as were employees without veterans' preference. However, those without veterans' preference were four times as likely to lose their jobs than were employees who had veterans' preference.

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Mr. Chairman and Members of the Committee:

I am pleased to be here today to assist the Committee in its consideration of the proposed Veterans Employment Opportunities Act of 1997, S. 1021, which is to amend title 5 of the United States Code to provide that consideration may not be denied to veterans who are eligible for preference¹ when applying for certain positions in federal service and for other purposes. By law, federal agencies are to provide preferential hiring consideration to veterans and others² as a measure of national gratitude and compensation for their military service.

As agreed, my comments today are primarily based on our body of work since 1990 on veterans' hiring preference and work we did on reductions-in-force (RIF) at selected military installations and at the U.S. Geological Survey (USGS) that occurred in 1991 and 1995, respectively.³ As requested, we also are providing certain statistics on the percentage of preference-eligible veterans among new federal career employees and in the existing federal workforce from 1990 through 1997. The information we present today, although relevant to consideration of S. 1021, does not reflect a current, complete analysis of whether veterans' preference requirements are achieving their intended purposes. We are not taking a position on the proposed legislation.

My testimony today will cover the following major points:

- Preference-eligible veterans represent a larger portion of the federal workforce than veterans do of the civilian workforce, and from 1993 through 1997 veterans with preference represented about 21 percent of all new career appointments to federal service.
- The assignment of veterans' preference and the placement of veterans on federal hiring certificates were properly done in nearly all cases we reviewed from July 1990 through June 1991. However, hiring officials more frequently returned unused those certificates headed by the names of

¹Preference for veterans is defined in 5 U.S.C. 2108(3).

²Veterans' preference also applies, in certain circumstances, to veterans' dependents, whose preference is derived from the military service of veterans who are not using the preference. This facet of veterans' preference is not discussed in this testimony.

³Federal Hiring: Does Veterans' Preference Need Updating? (GAO/GHD-92-53, Mar. 20, 1992); Federal Personnel: The EEO Implications of Reductions-in-Force (GAO/GHD-94-156, Feb. 1, 1994); Federal Hiring: Reconciling Managerial Flexibility With Veterans' Preference (GAO/GHD-95-102, June 16, 1995); Veterans' Preference: Data on Employment of Veterans (GAO/GHD-96-113, Feb. 1, 1996); USGS and OPM RIFs (GAO/GHD-96-220, Mar. 21, 1996); and USGS Reduction in Force (GAO/GHD-96-220, Aug. 1, 1996).

preference-eligible veterans than those without the names of preference-eligible veterans at the top.

- In three RIFs conducted at military installations in fiscal year 1991, our review showed that those without veterans' preference were much more likely to have lost their jobs than were preference-eligible veterans. Similarly, during an October 1995 RIF at the USGS, those employees without veterans' preference were much more likely to have lost their jobs than employees with such preference.

Veterans' Representation in the Workforce and Among Total New Career Appointments

From 1990 through 1997, preference-eligible veterans represented a significantly higher percentage of the federal workforce than did veterans overall in the total civilian workforce. As figure 1 illustrates, preference-eligible veterans represent a gently declining portion of the federal workforce, and veterans also represent a declining portion of the total civilian workforce. However, in each year from 1990 through 1997, the percentage of preference-eligible veterans in the federal workforce was about twice as high as that of veterans in the civilian workforce.

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Figure 1: Percentage of
Preference-Eligible Veterans in the
Federal Workforce and Veterans in the
Civilian Workforce



Note 1: Civilian workforce data are as of December 30 of each year; federal workforce data are as of September 30 of each year.

Note 2: Civilian workforce data are for men and women age 20 years and over.

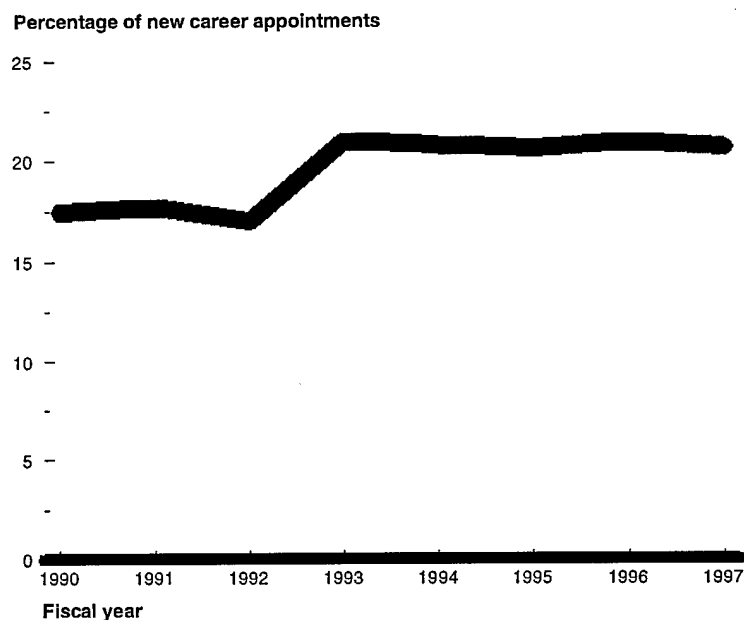
Source: GAO analysis of Office of Personnel Management data and data from the Department of Labor's Bureau of Labor Statistics.

Figure 2 shows that preference-eligible veterans increased as a portion of those attaining new career appointments⁴ in the federal government between 1990 and 1997. However, their portion of such appointments held virtually steady for fiscal years 1993 through 1997.

⁴A career appointment in the federal civil service is employment that leads to career tenure, generally after 3 years of substantially continuous service.

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Figure 2: Preference-Eligible Veterans as a Percentage of Total New Career Appointments



Note: New career appointments include new career hires and conversions to career positions. Conversions generally entail temporary or term employees moving to career status.

Source: GAO analysis of Office of Personnel Management data.

Veterans' preference is applied when agencies use competitive hiring authority⁵ to fill positions, as is generally the case for employees who attain career appointments in the federal government. The increase in the portion of new career appointments over this period who were preference eligible was most significant between fiscal years 1992 and 1993.

Adherence to Veterans' Preference Rules for Hiring

Under the Veterans' Preference Act of 1944, as amended, when qualified veterans apply for federal jobs, they may claim 5 or 10 veterans' preference points, depending on such factors as period of service; length and place of service; and, in certain instances, the extent of a service-related disability. Veterans with service-related disabilities may generally claim 10 points. These points are added to points that veterans and all other candidates for federal employment receive for education,

⁵Competitive hiring authority is the legal authority to hire after free and open competition.

work experience, and/or the passing of a written examination. The preference points they receive result in veterans being placed higher on federal hiring lists, giving veterans an advantage over other job applicants.

In the last several years, we have not done work on agencies' adherence to veterans' preference during the hiring process. However, in nearly all cases we reviewed in the early 1990s, agencies followed basic veterans' preference requirements leading up to the actual selection decision.⁶ At that point, hiring officials returned unused hiring certificates that were headed by the names of preference-eligible veterans more often than they did those headed by the names of individuals lacking such preference.

Preference Procedures During Hiring

When agencies want to fill positions, several hiring alternatives are available. Agencies can promote, transfer, or reassign a current federal employee; reinstate a former federal employee who has career status; make a new appointment from a hiring list, or hiring certificate (i.e., use competitive authority); or use noncompetitive appointment authorities. Of these hiring alternatives, veterans' preference applies only to competitive hiring.⁷ When agencies hire individuals from outside the federal government through competitive means, they can use the following methods: certificates from OPM or either of two authorities delegated from OPM (i.e., delegated examining authority or direct hire authority).

Under the first method, OPM receives and examines applications for federal employment, which can include reviewing a written test and/or reviewing qualifications, and determines whether an applicant is qualified for a specific occupation or related occupations. If an applicant is rated as qualified, then the applicant is assigned a score that is used to place the individual in rank order on a federal employment register. As part of this ordering process, OPM is responsible for ensuring that veterans receive all preference points that are due them. When OPM receives and examines applications from veterans, it is to (1) verify veterans' preference points that are claimed by applicants, (2) add the preference points to the veterans' scores, and (3) rank all applicants by score. Qualified veterans with service-related disabilities are to be placed at the top of hiring lists, or certificates.

⁶Federal Hiring: Does Veterans' Preference Need Updating? (GAO/GGD-92-22, Mar. 20, 1992) and Federal Hiring: Reconciling Managerial Flexibility With Veterans' Preference (GAO/GGD-95-102, June 16, 1995).

⁷The Veterans Readjustment Appointment (VRA) authority allows agencies, at their discretion, to hire an eligible veteran directly, without competition. VRA employees are initially hired for a 2-year period, after which they are eligible for a permanent appointment.

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Agency hiring officials can then request a certificate from OPM containing the top-rated candidates from the register. Agencies are generally required to select from among the top three available candidates on a certificate. However, they cannot select a nonveteran if a higher placed preference-eligible veteran is available on the list unless the selecting official obtains approval for passing over the higher ranked veteran. Justifications for passing over a higher ranked preference-eligible veteran must be based on qualifications or suitability. Only OPM is authorized to grant such approvals.

Under the second method, rather than use certificates developed by OPM, agencies may receive delegated examining authority from OPM to prepare their own certificates. Under such authority, agencies are to follow the same scoring, ranking, and selection rules that OPM follows. In addition, when shortages of qualified candidates exist, OPM provides agencies with direct hire authority, which permits agencies to directly receive applications, examine applicants, and make selections. Effective January 9, 1992,⁸ OPM directed agencies to apply regular scoring and ranking procedures, including application of veterans' preference, whenever more than three candidates apply for a job or whenever both veterans and nonveterans are available. Until that date, direct hire authority, which accounted for almost one-third of all competitive hiring in fiscal year 1990, did not always provide for qualified veterans to receive preference.

Veterans Received
Appropriate Preference
Points and Placement on
Fiscal Year 1990 and 1991
Hiring Lists We Reviewed

In 1992, we reported that for nearly all of the federal job applications that we reviewed for fiscal years 1990 and 1991, the veterans' preference points due applicants matched the points given to them on hiring certificates prepared by OPM or other executive agencies.⁹ We randomly selected 1,136 hiring certificates from OPM and executive agencies, excluding the Postal Service, and examined the 1,862 available job applications associated with those hiring certificates. For the 1,862 applications that we reviewed, 99.7 percent, or for all but 6 applications, agencies had provided the correct veterans' preference points on hiring certificates.¹⁰ Also, we reported that the placement of veterans on certificates of eligible job

⁸See 56 Federal Register 64,469 (1991).

⁹GAO/T-92-12, March 20, 1992.

¹⁰In addition, OPM or agency review of candidate applications resulted in veterans being credited with points they had earned but not claimed.

candidates was also correct. Veterans were properly placed on all but 1 of the 1,136 certificates that we reviewed from OPM and executive agencies.

**Certificates We Reviewed
From 1990 and 1991 That
Were Headed by Veterans
Were Returned Unused
More Often Than Those
Headed by Nonveterans**

Although veterans may receive additional points because of their military service and be highly placed on certificates, they are not assured of selection for jobs. Under existing civil service laws and regulations, hiring officials have the option of using a variety of methods to identify and recruit potential candidates for a position. These officials may also leave a position vacant rather than fill it with a candidate who is qualified for the position but with whom they are not satisfied. Therefore, certificates of eligible job candidates may be requested but not used if federal managers are dissatisfied with the choices presented to them.

In our 1992 report on federal hiring, we reported that 57 percent of all certificates were returned unused. We found that a greater chance existed that hiring officials would return certificates unused to OPM or the personnel office of their agencies when the name of a preference-eligible veteran was at the top of the hiring list.¹¹ We reported that of the 1,136 certificates of eligible job candidates we reviewed, about 71 percent of certificates had been returned unused if they were headed by a veteran. About 51 percent of certificates were returned unused if they were headed by a nonveteran.

One explanation for this difference is that managers in executive agencies may have less flexibility in selecting from a certificate if the name of a veteran is at the top. For example, if a certificate lists nonveterans in the top three positions, a manager can select any of the three. However, if a certificate is headed by a preference-eligible veteran and nonveterans are in the next two positions, the manager generally has no choice but to select the veteran or return the certificate unused, unless the manager receives approval from OPM to pass over the veteran.

In addition, federal managers may request multiple hiring certificates for the same job and ultimately not use some or all of them. We reported in 1992 that officials from OPM and other agencies frequently cited managers' desire to maximize the number of candidates from which to choose as the reason for requesting (1) multiple hiring certificates if a position could be filled at more than one grade level or (2) certificates to supplement their internal lists of candidates. Although OPM regulations required agencies to explain why no appointment was made from a

¹¹ VAOP 57002-92, March 20, 1992.

certificate, OPM did not enforce this requirement. When agencies did provide reasons for not selecting a candidate, OPM did not collect data on or analyze those reasons to determine their legitimacy, the possibility of antiveteran bias, or whether certificates met managers' needs. In our 1992 report on federal hiring, we recommended that the Director of OPM establish a tracking system to monitor the use of federal hiring certificates. We also recommended that the Director use the data gathered by this system to analyze veteran hiring patterns. By February 1994, according to OPM, OPM developed a tracking system for evaluating unused certificates and automated portions of it. We have not reviewed this tracking system.

Federal Employees With Veterans Preference During RIFs

When agencies reduce their workforces through RIFs, veterans also have certain retention rights that are derived from the 1944 Veterans' Preference Act. We have reviewed RIFs at three military installations and at one division within the USGS in sufficient detail to have statistics on how preference-eligible veterans fared in the RIF process. In each of these RIFs, preference-eligible veterans were more likely to have retained their jobs than were employees lacking veterans' preference.

Veterans' Preference During RIFs

Under OPM regulations, RIFs are accomplished in two phases. First, management determines the number and types of positions that are to be abolished and the "competitive areas" affected by the decision. Second, management identifies the employees within a competitive area and their relative status in the competition for retention. Employees' retention status and assignment rights to other positions are essentially determined by their tenure, veterans' preference, and length of service, with additional years of service credit provided based on how well they did on their performance ratings.

When the identified positions are abolished, incumbents of those positions may have assignment rights to other positions that are not being abolished, depending on their retention status and qualifications. Once the initial decisions are made that define the numbers, types, and locations of positions to be abolished, determining the retention status of employees and their exercise of assignment rights is a relatively mechanical process with little flexibility. During a RIF, employees are separated from federal employment starting with those having the lowest retention status and continuing with those having increasingly higher retention status until RIF separation targets are met.

How Veterans Fared During Selected RIFs

In 1994, we testified on the impact on certain groups covered by equal employment opportunity laws of RIFs that occurred in fiscal year 1991 at three Department of Defense installations.¹² We testified that the RIFs resulted in separations of minorities in numbers disproportionate to their numbers in the workforce at the three locations reviewed. Women were separated in disproportionate numbers at two of the locations. In some cases, disproportionate numbers of separations occurred largely because minorities and women did not have the retention factors—tenure, veterans' preference, or performance-adjusted seniority—of nonminorities or men. Our analysis of the retention factors for civilian workers employed by the military services at the end of fiscal year 1991 showed that minorities and women ranked lower than their nonminority counterparts in all retention factors, including veterans' preference.

For purposes of this hearing, we analyzed the data from our 1994 testimony to determine how well preference-eligible veterans fared during the RIFs at the three installations. Overall, we found that those without veterans' preference were from about two to seven times more likely to have lost their jobs during the RIFs than were those employees with veterans' preference. At the Alameda, California, Naval Aviation Depot, those without veterans' preference were seven times more likely to have lost their jobs in the RIF than were those who had the preference. At Kelly Air Force Base in San Antonio, Texas, those without veterans' preference were about twice as likely to have lost their jobs. And at the Watervliet, New York, Army Arsenal, those without veterans' preference were six times more likely to have lost their jobs.

In 1996, we reported on a RIF conducted at the USGS during October 1995.¹³ This RIF took place within the U.S. Geological Survey's Geologic Division and was somewhat unusual in that the overwhelming majority of Geologic Division employees were each placed in competitive levels that included only one employee. Employees within a single-person competitive level have less opportunity to move into another position during a RIF. Thus, such employees would be more likely to be separated from an agency.

We found that during the USGS' RIF, as required by law and OPM regulations, employees with veterans' preference were consistently given higher retention standing than competing employees without such preference. We also found that preference-eligible veterans were just as

¹² *U.S. GAO Report*, February 1, 1994.

¹³ *U.S. GAO Report*, March 21, 1996 and *U.S. GAO Report*, August 1, 1996.

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likely to be affected in some manner during the RIF—reassigned, moved to a lower graded position, or laid off—as were employees without veterans' preference. However, those without veterans' preference were four times as likely to lose their jobs than were employees who had veterans' preference.

Although you were interested in our updating and adding to these RIF-related retention statistics, we were not able to obtain comparable data on the retention rates for preference-eligible veterans for a wider number of more recent RIFs in the limited time we had to prepare for this hearing. Data are available from OPM's Central Personnel Data File on the total number of veterans who have lost their jobs during RIFs over the past several years. However, these data alone do not indicate whether preference-eligible veterans were separated as a result of a RIF at rates disproportionate to others. Determining whether veterans have been disproportionately affected during RIFs would require data on the full population that was at risk of losing their jobs during a RIF. This is the population of the competitive area that would have been established by agencies for each specific RIF. Such data are not available from any central database that we were able to identify.

In summary, Mr. Chairman, preference-eligible veterans remain a larger portion of the federal workforce than veterans overall in the general civilian workforce. In those job applications we reviewed for fiscal years 1990 and 1991, agencies properly followed veterans' preference procedures in the hiring process in virtually all cases. However, selecting officials were more likely to return certificates unused if they were headed by the names of veterans than they were if veterans did not head those certificates. Finally, in four specific RIFs we reviewed, employees who did not have veterans' preference were much more likely to lose their jobs during a RIF than were their colleagues who had veterans' preference.

This concludes my prepared statement. I would be pleased to respond to any questions that you or other Members of the Committee may have.

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